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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/002,090	11/01/2001	Arun Ramachandran	COM-002.8D	2020

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EXAMINER

DAVIS, ZACHARY A

ART UNIT PAPER NUMBER

2137

DATE MAILED: 06/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/002,090	RAMACHANDRAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Zachary A. Davis	2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 March 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>20020903</u> . | 6) <input type="checkbox"/> Other: _____  |

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## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Figures YA and Y.B (see, for example, page 13, line 31). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The disclosure is objected to because of the following informalities:

The specification appears to contain numerous typographical and other errors. For example, on page 8, lines 8-12, the sentences beginning "The license monitoring server also programmed" appear to be fragments; on page 18, line 13, there appear to

be extraneous symbols, namely asterisks (\*) preceding a sentence; and on page 33, line 34, it appears that "provided" is intended to read "provide".

The above is not an exhaustive list of errors in the specification. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Appropriate correction is required.

3. The use of the trademarks Microsoft Word® (see page 11, line 30) and Microsoft Office® (see page 16, line 11), among others, has been noted in this application. The trademarks should be capitalized wherever they appear and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

### ***Claim Objections***

4. Claim 2 is objected to because of the following informalities: Claim 2 recites the limitation "said remote use access said client and resource data". It appears that "access" is intended to read "accesses". Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 3, 7, and 12 recite the limitation "the user" in line 3 of each claim.

Claim 5 also recites the limitation "the user" in line 4 of the claim. There is insufficient antecedent basis for this limitation in the claims.

The use of the phrase "and/or" throughout Claims 1, 3-5, 7, 12, and 13 renders the claims indefinite because it is unclear which of the listed limitations are necessarily within the scope of the claims. For example, in Claims 1, 3, 5, 7, and 12, the use of the phrase "to view and/or download" makes it unclear whether the user must only download data, only view the data, or must both view and download the data. Similarly, the use of optional plurals, specifically "client(s)", "resource(s)", and "is/are" in Claims 1, 3-5, 7, 12, and 13 are unclear in their number; use of a limitation such as "one or more clients", "two or more clients", or simply "clients" would provide more clear guidance as to the scope of the claims.

The use of pronouns should be avoided, as it is possible to misconstrue the antecedents of the pronouns. In Claims 1, 3, and 7, in line 7 of each claim, and in line 8 of Claims 5 and 12, it appears that "him" refers to "the user". In Claim 4, line 2, and in

Claim 13, line 3, it appears that "she" also refers to "the user". In Claim 5, line 15, and in Claim 7, line 14, it appears that "it" refers to "the portion of the requested data". In Claim 6, line 9, and in Claim 8, line 10, it appears that "it" refers to "the data" modified by the user. The use of the general phrases "if not" and "if so" should be avoided for similar reasons. In line 16 of Claim 1, line 12 of Claim 3, and line 18 of Claim 12, it appears that "if not" is intended to refer to the determination if the user has access, and the claims should be amended to read "if the user does not have access" or "if it is determined the user does not have access" or similar. In line 13 of Claim 5, and line 12 of Claim 7, it appears that "if not" is intended to refer to the determination if there are links, and the claims should be amended to read "if there are not links" or similar. Further, the phrase "if so" in line 7 of Claim 6 and line 8 of Claim 8 and the phrase "if not" in line 8 of Claim 6 and line 9 of Claim 8 appear to refer to the determination if modification is allowed, and the claims should be amended to read "if modification is allowed" and "if modification is not allowed", respectively.

Claim 3 recites the limitation "the requested data" in lines 10-11. There is insufficient antecedent basis for this limitation in the claim, although this appears to refer to the data identified in lines 7-8.

Claim 4 recites the limitation "the data structure" in line 8. There is insufficient antecedent basis for this limitation in the claims.

Claim 5 recites the limitation "a usage-based licensing system data structure containing, among other things". It appears that an open-ended construction is intended; if so, the claim should be amended to recite "comprising" or "including" in

place of “containing, among other things”. Claim 5 further recites the limitation “the requested data” in line 12. There is insufficient antecedent basis for this limitation in the claim, although this appears to refer to the data identified in lines 8-9.

Claim 6 recites the limitation “said data” in line 2. It is unclear whether this is intended to refer to the data structure of Claim 5, line 2; the data identified in lines 8-9 of Claim 5; the data of interest of line 10 of Claim 5; or the requested data of Claim 5, line 12. This renders the claim indefinite.

Claim 7 recites the limitation “said data structure” in line 10. There is insufficient antecedent basis for this limitation in the claim. Claim 7 further recites the limitation “the requested data” in line 11. There is insufficient antecedent basis for this limitation in the claim, although this appears to refer to the data identified in lines 7-8.

Claim 8 recites the limitation “said data” in line 3. It is unclear whether this is intended to refer to the data identified in lines 7-8 of Claim 7, the data of interest of line 9 of Claim 7, or the requested data of line 11 of Claim 7. This renders the claim indefinite.

Claims 10 and 11 recite “The apparatus of claim 6”; however, Claim 6 is directed to a method. It appears that the claims are intended to depend from independent Claim 7. Further, Claim 10 recites the limitation “the direct family tree of the user who logged in which includes both the direct licensor from whom said user/licensee took a license but not any higher level licensor or distributor who licensed said direct licensor as well as direct licensees who take licenses from said user”. This limitation is generally narrative, vague, and unclear.

Claim 13 recites the limitation "the data structure" in line 10. There is insufficient antecedent basis for this limitation in the claims.

Any claim not specifically referred to above is rejected due to its dependence on a rejected base claim.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Edelman, US Patent 6857067.

In reference to Claim 1, Edelman discloses a process including receiving a login communication from a user containing user name and password; using the user name and password to authenticate the user (column 9, lines 41-45, where a serial number and password are used for authentication); sending an access denied message if the user is not authenticated; requesting the user to identify resources of interest and data that is to be viewed, if the user is authenticated, and receiving a message indicating the resources and data (column 5, lines 51-60); determining if the user has access to data



for the resource; sending an access denied message if the user does not have access; and transmitting the requested data to the user if the user does have access (column 12, lines 50-56, where it is determined if a user is authorized to use software).

In reference to Claim 2, Edelman further discloses accessing the resource over the Internet (see Figure 1, Internet 150).

In reference to Claim 3, Edelman discloses a process including receiving a login communication from a user containing user name and password; using the user name and password to authenticate the user (column 9, lines 41-45); sending an access denied message if the user is not authenticated; requesting the user to identify data that is to be viewed, if the user is authenticated, and receiving a message indicating the data (column 5, lines 51-60); determining if the user has access to data for the resource; sending an access denied message if the user does not have access; and transmitting the requested data to the user if the user does have access (column 12, lines 50-56).

In reference to Claim 4, Edelman further discloses sending a message to the user to inquire if there are any new resources to declare; disconnecting the user if there are no new resources to declare; requesting transmission of data identifying new resources if they exist; and creating data entries for the new resources (see Figure 8; column 14, lines 15-22).

In reference to Claim 5, Edelman discloses a process including receiving a login communication from a user containing user name and password; using the user name

and password to authenticate the user (column 9, lines 41-45); sending an access denied message if the user is not authenticated; requesting the user to identify data that is to be viewed, if the user is authenticated, and receiving a message indicating the data (column 5, lines 51-60); determining if there are links that couple data representing the user the requested data; sending an access denied message if there are no such links; and transmitting the requested data to the user if there are such links (column 12, lines 50-56).

In reference to Claim 6, Edelman further discloses sending a message to the user to inquire if any of the data is to be modified and receiving a message indicating whether any modification is desired; determining if modification of the data is allowed; sending a message to the user indicating modification is allowed, and the user modifying the data and sending the data back to the server, where the data is then stored, if modification is allowed; and sending a message to the user indicating modification is not allowed, if modification is not allowed (column 8, lines 5-14, where the access to the software may be modified).

Claims 7 and 8 are directed to a software implementation of the process of Claims 5 and 6, and are rejected by a similar rationale.

In reference to Claims 9-11, Edelman further discloses restricting access solely to data that is within the family tree of the user (see Figure 5; column 8, lines 30-39, where there may be a license manager interposed between the client and the registration authority).

Claims 12 and 13 are directed to a software implementation reciting limitations of process Claims 1 and 4, and are rejected by a similar rationale.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Schull, US Patent 5509070, discloses a system for purchasing licenses for software that includes a password-based locking system.
- b. Nagahama, US Patent 5636277, discloses a system for licensing the use of software that includes a hierarchical distribution.
- c. Frison et al, US Patent 6049789, discloses a software pay-per-use licensing system.
- d. Garst et al, US Patent 6188995, discloses a method for enforcing software licenses that includes authentication.
- e. Colvin, US Patent 6799277, discloses a software monitoring system that includes password authentication and license metering.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zachary A. Davis whose telephone number is (571) 272-3870. The examiner can normally be reached on weekdays 8:30-6:00, alternate Fridays off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*ZAD*  
zad

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